United Nations CRC/C/OPSC/IRQ/CO/1

Convention on the Rights of the Child

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Committee on the Rights of the Child

Concluding observations on the report submitted by Iraq under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*

1. The Committee considered the initial report of Iraq (CRC/C/OPSC/IRQ/1) at its 1962nd meeting (see CRC/C/SR.1962) held on 22 January 2015, and adopted the following concluding observations at its 1983rd meeting, held on 30 January 2015.

I. Introduction

2. The Committee welcomes the submission of the State party's initial report and its written replies to the list of issues (CRC/C/OPSC/IRQ/Q/1/Add.1). The Committee expresses its appreciation for the constructive dialogue held with the high-level and multisectoral delegation of the State party.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with its concluding observations on the State party's second to fourth combined periodic reports under the Convention on the Rights of the Child (CRC/C/IRQ/CO/2–4) and initial report under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/IRQ/CO/1), adopted on 30 January 2015.

II. General observations

Positive aspects

4. The Committee welcomes the following measures taken by the State party in areas relevant to the implementation of the Optional Protocol:

(a) Combating Trafficking in Persons Act No. 28 (2012);

(b) Aftercare and Family Integration Programme;

(c) Establishment of two child helplines;

* Adopted by the Committee at its sixty-eighth session (12–30 January 2015).

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(d) Establishment of victim support units, of a State-run shelter for victims of trafficking as well as family protection units.

5. The Committee also notes with appreciation the State party's ratification of the:

(a) Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, in February 2009;

(b) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, in February 2009;

(c) United Nations Convention against Transnational Organized Crime, in March 2008;

(d) International Labour Organization (ILO) Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, in July 2001.

III. Data

Data collection

6. The Committee notes with concern that the State party does not have any mechanism for systematic data collection on crimes covered under the Optional Protocol.

7. **The Committee recommends that the State party develop and implement a comprehensive and systematic mechanism for data collection, analysis, monitoring and impact assessment of all the areas covered by the Optional Protocol. The data should be disaggregated by, inter alia, sex, age, national and ethnic origin, geographical location, indigenous status and socioeconomic status, with particular attention to children in the most vulnerable situations. Data should also be collected on the number of prosecutions and convictions, disaggregated by the nature of the offence.**

IV. General measures of implementation

Legislation

8. While welcoming efforts to integrate various provisions of the Optional Protocol into the legislation of the State party, the Committee is concerned that such efforts have focused almost exclusively on trafficking and prostitution. The Committee is also concerned that existing legislation does not explicitly address all offences covered by the Optional Protocol, and that the definition of sale of children in the State party's legislation is not in conformity with the Protocol.

9. **The Committee recommends that the State party take all necessary measures to fully incorporate the Optional Protocol in its domestic legal system and to amend in its national legislation the definition of sale of children, which is similar to but not identical to trafficking in persons, in order to implement adequately the provision on sale of children contained in the Optional Protocol.**

Comprehensive policy and strategy

10. The Committee regrets the lack of information and recommends that the State party immediately adopt a comprehensive policy and strategy to combat all offences under the Optional Protocol and involve civil society in their preparation and implementation.

Coordination and evaluation

11. **The Committee regrets the lack of information and recommends that the State party speedily set up a coordinating mechanism to combat all offences under the Optional Protocol effectively.**

Cooperation with civil society

12. While noting that law enforcement officials occasionally cooperate with non-governmental organizations (NGOs) and international organizations to refer victims to protection services, the Committee is concerned about the general lack of cooperation between the State party and civil society concerning the implementation of the Optional Protocol. The Committee is particularly concerned that:

(a) NGOs are not allowed to shelter all child victims or children who are at risk of becoming victims of offences under the Optional Protocol;

(b) NGOs remain under constant threat of violence by extremist groups without the necessary protection being afforded to them by the State;

(c) The State party has not provided funding or in-kind assistance to NGOs providing protection services to victims.

13. **The Committee recommends that the State party strengthen cooperation with civil society regarding the implementation of the Optional Protocol and allocate sufficient technical and financial resources to NGOs that provide protection and support to children who have fallen victim to offences covered by the Optional Protocol. The Committee urges the State party to take all necessary measures to ensure that NGOs are fully protected against attacks from extremist groups and do not face any legal obstacles in carrying out their work.**

Dissemination, awareness-raising and training

14. The Committee regrets that training on the Optional Protocol for judges, law enforcement officials and professionals working with and/or for children is inadequate. The Committee is also concerned that there is a lack of public awareness of sexual exploitation of children, including among parents and children themselves, and that customs and traditions expose children who have suffered sexual abuse and exploitation, as well as their families, to shame, a situation which leads to underreporting of these crimes.

15. **The Committee recommends that the State party take all necessary measures to make the Optional Protocol widely known and:**

(a) Develop multidisciplinary training programmes for judges, law enforcement personnel, in particular the police, and other professionals working with and/or for children to ensure that they can effectively translate their knowledge and skills into practice in order to protect children from the offences covered by the Optional Protocol;

(b) Carry out intensive awareness-raising activities on the provisions of the Optional Protocol, including mass media campaigns, involving communities, local teachers, youth and children's groups. These awareness-raising activities should pay particular attention to preventing sexual exploitation, to addressing the stigma

attached to victims and to stressing and encouraging the reporting of these crimes, notably by providing victims with information on all reporting channels accessible to them.

V. Prevention of the sale of children, child prostitution and child pornography (art. 9, paras. 1 and 2, of the Optional Protocol)

Measures adopted to prevent offences prohibited under the Optional Protocol

16. The Committee notes with concern that existing policies and programmes are insufficient to address the root causes of the sale of children, child prostitution and child pornography, which include severe gender-based discrimination and violence, poverty, discrimination of children belonging to minorities, internal displacement and migration, lack of access to education and children being forced to live and/or work in the streets. The Committee is extremely concerned that:

(a) Many children remain unregistered, which makes them especially vulnerable to offences under the Optional Protocol;

(b) Iraqi refugee children, especially girls, who return to Iraq from the Syrian Arab Republic are particularly vulnerable to all forms of exploitation and trafficking, as they do not often have a community to which to return and lack access to any kind of State support.

17. **The Committee urges the State party to adopt a comprehensive approach and concrete measures to address the root causes of offences under the Optional Protocol and to target families and children in the most vulnerable situations. In particular, the Committee recommends that the State party:**

(a) Ensure full implementation of the recommendations made by the Committee under the Convention (CRC/C/IRQ/CO/2–4), especially those relating to standard of living (para. 63); non-discrimination (para. 17); internally displaced and refugee children (para. 67); children in street situations (para. 75); education, including vocational training and guidance (para. 65); and children deprived of a family environment (paras. 47 and 49);

(b) Take all necessary measures to rescue children who are under the control of the so-called Islamic State of Iraq and the Levant (ISIL) and provide them with access to adequate recovery and reintegration services;

(c) Continue and strengthen its measures to ensure that all children are registered at birth;

(d) Ensure that returnees are provided with access to support, and develop prevention programmes targeting children in the most vulnerable situations and, in particular, take all necessary measures to ensure that internally displaced children, children in migration situations and children in street situations are provided with adequate and secure shelter, health care, education and clothing.

Sale of children

18. The Committee notes with deep concern the high number of children remaining under the control of the so-called ISIL and the existence of "markets" where abducted children and women, in particular from minority groups, are sold among members of ISIL to serve as sexual slaves. The Committee is also deeply concerned that:

(a) Girls have continued to be used as "gifts", "rewards" or "bargaining tools" or exchanged as "compensation" for dispute resolution between tribes;

(b) The practice of muta'a, which consists of "temporary marriage" with a view to forcing the girl into prostitution after the marriage, has been re-emerging in the State party, with a large number of families, often driven by poverty and/or unemployment, selling their daughters, many of whom are as young as 11, into these marriages;

(c) Girls who have fallen victim to abduction and/or sale face severe stigmatization, which leads to underreporting of the crimes to which they were subjected and to the high risk of their being rejected by their families, forced into marriage with their abductor, or becoming victims of crimes committed in the name of so-called "honour";

(d) Girls are reportedly sold and trafficked within the State party and outside, including to Jordan, the Syrian Arab Republic, the United Arab Emirates and Yemen, with many Iraqi girls who had fled to the Syrian Arab Republic having being sold into the sex trade;

(e) Girls, including very young ones, are reported to travel very easily with forged passports and/or with their supposed "husbands".

19. **The Committee urges the State party to take all necessary measures to ensure that any form of sale of girls and women is fully criminalized, investigated and prosecuted, in particular selling, buying or exchanging them, or using them as gifts or compensation, including in slave markets, via muta'a and in the context of dispute resolution before tribal or religious courts. The Committee also calls attention to its recommendations under the Convention regarding early and forced marriage (CRC/C/IRQ/CO/2–4, para. 42), and urges the State party to take all necessary measures to support families living in poverty, as well as to:**

(a) Take all necessary measures to change attitudes that discriminate against girls who have become victims of sale and/or abduction;

(b) Closely cooperate with neighbouring countries to combat the cross-border sale of girls, to increase passport control and to identify girls separately from the persons accompanying them.

VI. Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3, 4, paras. 2 and 3, and 5 to 7 of the Optional Protocol)

Existing criminal or penal laws and regulations

20. The Committee notes with concern that, while trafficking has recently been criminalized, the legislation of the State party does not cover all offences under the Optional Protocol, such as the sale of children. Furthermore, the Committee is very concerned that article 398 of the Penal Code (Act No. 111 (1969)) provides for the impunity of perpetrators of a child sexual offence if they enter into a valid marriage with the child victim.

21. **The Committee urges the State party to take prompt legal measures to ensure that all offences under the Optional Protocol are fully criminalized, and to repeal expeditiously article 398 of the Penal Code (Act No. 111 (1969)) and all legal provisions that can be used to excuse perpetrators of sexual abuse of children.**

Impunity

22. The Committee notes with concern that investigations, prosecutions and convictions for offences under the Optional Protocol are very limited in number. Furthermore, the Committee is deeply concerned about numerous reports of police and other law

enforcement authorities' complicity in the trafficking of children, including government officials providing assistance with the forging of documents, and police officers patronizing brothels. The Committee is concerned that cases of government officials' complicity in offences relating to trafficking are very rarely investigated and prosecuted.

23. **The Committee urges the State party to investigate, prosecute and punish vigorously perpetrators of offences under the Optional Protocol, including government officials.**

Extraterritorial jurisdiction and extradition

24. The Committee notes with concern that the Code of Criminal Procedure does not establish explicit extraterritorial jurisdiction over all offences referred to in article 3, paragraph 1, of the Optional Protocol.

25. **The Committee recommends that the State party:**

(a) Establish its jurisdiction over the offences referred to in article 3, paragraph 1, of the Optional Protocol when the alleged offender is a national of the State or a person who has his habitual residence in its territory; as well as when the victim is a national of the State;

(b) Consider using the Optional Protocol as a legal basis for extradition, without the condition of the existence of a bilateral treaty.

VII. Protection of the rights of child victims (arts. 8 and 9, paras. 3 and 4, of the Optional Protocol)

Measures adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol

26. The Committee is very concerned that, in cases in which a child under 15 years of age is a victim or witness of a crime, his or her testimony is sometimes not given due consideration and that he or she cannot file a complaint without his or her parents' consent. Furthermore, the Committee notes with concern that:

(a) Victims of trafficking and of prostitution are reportedly being mistreated or abused during interrogation, and incarcerated, fined, convicted, deported or otherwise penalized for unlawful acts such as prostitution and immigration violations;

(b) There are cases of girls sold into prostitution being kept in prison to "protect" them from reprisals for bringing shame on their family/community;

(c) Mechanisms have not been put in place for the identification of child victims of offences under the Optional Protocol, and officials have not been trained or provided with any guidance to identify these child victims or children at particular risk, such as undocumented foreign migrant children or children arrested on prostitution charges.

27. **The Committee urges the State party to:**

(a) Take prompt measures to ensure that children's testimonies are regarded as full proof, and that children are allowed to file a complaint on their own behalf;

(b) Immediately remove from prison all women and girls detained allegedly for their protection and provide them with all the support necessary;

(c) Establish an effective system of reporting, with a child-sensitive inquiry and judicial procedure that fully protects children's privacy and dignity;

(d) Establish effective mechanisms to identify, detect and monitor children in vulnerable situations who are at risk of becoming victims of offences under the Optional Protocol, and provide these mechanisms with the necessary human, financial and technical resources, as well as training, for them to identify children who are victims or at risk of offences under the Protocol;

(e) Ensure that every child who has fallen victim to any of the crimes under the Optional Protocol is under no circumstances treated as a criminal, but always as a victim, and is provided with all the necessary protection, support and access to reintegration and recovery services;

(f) Ensure that victims of trafficking are protected from any form of mistreatment and abuse when in contact with law enforcement officials, and have access to reporting channels.

Recovery and reintegration of victims

28. While welcoming the establishment of a State-run shelter for victims of trafficking, as well as family protection units in police stations to assist women and children who have been victims of abuse and trafficking, the Committee is concerned that the shelter has reportedly remained vacant, despite the presence of trafficking victims in the State party, and that the support units operated by the Ministry of Health have not undertaken any efforts to identify and assist victims of trafficking since their establishment in 2013. The Committee is also concerned that:

(a) Upon release from prison, child victims of prostitution have difficulties in finding assistance, especially when they were sold into prostitution by their families;

(b) Although a national trafficking referral mechanism was created in 2012, it has not yet been finalized and implemented;

(c) There are reported cases of health-care facilities being unequipped or unwilling to treat victims of sexual exploitation.

29. **The Committee urges the State to**:

(a) Develop programmes and policies for the effective identification of children who are victims of offences under the Optional Protocol;

(b) Provide support and protection to children who are victims of offences under the Optional Protocol and ensure their access to psychological assistance and counselling as well as medical care;

(c) Take all necessary measures, including legal measures, to guarantee that the health services provide children who are victims of offences under the Optional Protocol with every facility for their physical and mental recovery.

Helpline

30. The Committee welcomes the establishment of two child helplines in the Baghdad governorate, one in the Karkh district at the Directorate for Family Welfare and one in the Rusafa district at the community-based Family Protection Police Office. The Committee is concerned, however, that no State-wide helpline has been established and that no adequate efforts have been deployed to raise children's awareness of the existing helplines and their safe usage.

31. **The Committee recommends that the State party take all the necessary efforts to allocate sufficient human, technical and financial resources for the establishment of a State-wide helpline. The Committee also recommends that the State party:**

(a) Conduct systematic training and capacity-building for persons operating the existing helplines, in order to prevent and respond effectively to offences covered by the Optional Protocol;

(b) Ensure that the State-wide helpline has an outreach component, so that it is fully accessible and known to all children throughout the country, and facilitate collaboration between the helpline and child-focused NGOs, the police, and health and social workers.

VIII. International assistance and cooperation (art. 10)

Multilateral, bilateral and regional agreements

32. The Committee notes with concern that no regional agreements have been signed between the State party and neighbouring countries to combat offences under the Optional Protocol.

33. **In the light of the fact that the State party has not established a regional agreement and in view of article 10, paragraph 1, of the Optional Protocol, the Committee encourages the State party to continue to establish international cooperation through multilateral, regional and bilateral arrangements, especially with neighbouring countries, to prevent, detect and prosecute offences under the Protocol.**

IX. Follow-up and dissemination

Follow-up

34. **The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to the relevant government ministries, the Parliament, and to national and local authorities, for appropriate consideration and further action.**

Dissemination of concluding observations

35. **The Committee recommends that the report and written replies submitted by the State party and the related recommendations (concluding observations) of the Committee be made widely available, including, but not exclusively, through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.**

X. Ratification of the Optional Protocol on a communications procedure

36. **The Committee recommends that the State party ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure in order to further strengthen the fulfilment of children's rights.**

XI. Next report

37. **In accordance with article 12, paragraph 2, of the Optional Protocol, the Committee requests the State party to include further information on the**

implementation of the Protocol in its next periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.